

Assembly Bill No. 1798

CHAPTER 897

An act to amend Sections 791.06, 791.07, 791.11, 791.12, 10146, 10147, 10148, 10149, and 10149.1 of the Insurance Code, relating to insurance.

[Approved by Governor September 30, 2026. Filed with
Secretary of State September 30, 2026.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1798, Wilson. Genetic testing for life and disability insurance.

Existing law generally regulates classes of insurance, including life and disability insurance. Existing law prohibits an insurer from requiring a test for the presence of a genetic characteristic for the purpose of determining insurability, except as specified. If an insurer requests an applicant to take a genetic characteristic test, existing law requires the insurer to obtain the applicant's written informed consent and to notify the applicant of the test result. Existing law prohibits a life or disability income insurer from requiring a genetic characteristic test if the results of the test would be used to determine eligibility for specified health care coverage. Existing law prescribes civil penalties for an insurer who discloses the results of a test for a genetic characteristic requested by the insurer.

This bill would repeal those provisions and would instead prohibit a life or disability insurer from canceling, limiting, or denying coverage, among other actions, based on a test for the presence or absence of a genetic characteristic. The bill would authorize a life or disability insurer to base an underwriting decision on a test for the presence or absence of a genetic characteristic if specified criteria are met. The bill would, except as provided, prohibit a life or disability insurer from requiring, requesting, or soliciting genetic information, using genetic test results, or considering a person's decisions or actions relating to genetic testing in any manner for an insurance purpose. The bill would additionally impose civil penalties for the use of genetic information or genetic characteristics in a manner inconsistent with these provisions, as specified, and other civil penalties for any violation of these provisions. The bill would also prohibit the use or disclosure of an individual's full genome.

Existing law, the Insurance Information and Privacy Protection Act, prohibits an insurance institution, agent, or insurance-support organization from seeking specified information in connection with an insurance transaction or preparing or requesting an investigative consumer report about an individual for an insurance application, except as specified. Existing law prohibits an insurance institution or agent from basing an adverse underwriting decision on specified information. Existing law prohibits an insurance institution, agent, or insurance-support organization from utilizing

a form or statement that authorizes disclosure of personal or privileged information as its disclosure form, unless the form or statement meets specified criteria.

This bill would prohibit an insurance institution, agent, or insurance-support organization from seeking information in connection with an insurance transaction concerning, or prohibit an insurance institution or agent from basing an adverse underwriting decision on, an individual's genetic information or full genome, unless specified criteria are met. The bill would prohibit an insurance institution, agent, or insurance-support organization from preparing or requesting an investigative consumer report that seeks an individual's genetic information or full genome.

This bill would state the intent of the Legislature that, notwithstanding any other law, these provisions shall not be interpreted to authorize the use or disclosure of an individual's full genome.

This bill would incorporate additional changes to Sections 791.07, 791.11, and 791.12 of the Insurance Code proposed by SB 354 to be operative only if this bill and SB 354 are enacted and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Notwithstanding any other law, it is the intent of the Legislature that the changes made by this act shall not be interpreted to authorize the use or disclosure of an individual's full genome.

SEC. 2. Section 791.06 of the Insurance Code is amended to read:

791.06. (a) Notwithstanding any other law, an insurance institution, agent, or insurance-support organization shall not utilize as its disclosure authorization form in connection with insurance transactions a form or statement that authorizes the disclosure of personal or privileged information about an individual to the insurance institution, agent, or insurance-support organization unless the form or statement meets all of the following criteria:

- (1) Is written in plain language.
- (2) Is dated.
- (3) Specifies the types of persons authorized to disclose information about the individual.
- (4) Specifies the nature of the information authorized to be disclosed.
- (5) Names the insurance institution or agent and identifies by generic reference representatives of the insurance institution to whom the individual is authorizing information to be disclosed.
- (6) Specifies the purposes for which the information is collected.
- (7) Specifies the length of time the authorization shall remain valid, which shall be no longer than:
 - (A) One of the following for authorizations signed for the purpose of collecting information in connection with an application for an insurance policy, a policy reinstatement or a request for change in policy benefits:
 - (i) Thirty months from the date the authorization is signed if the application or request involves life, health, or disability insurance.

(ii) One year from the date the authorization is signed if the application or request involves property or casualty insurance.

(B) One of the following for authorizations signed for the purpose of collecting information in connection with a claim for benefits under an insurance policy:

(i) The term of coverage of the policy if the claim is for a health insurance benefit.

(ii) The duration of the claim if the claim is not for a health insurance benefit.

(iii) The duration of all claims processing activity performed in connection with all claims for benefits made by any person entitled to benefits under a nonprofit hospital service contract.

(8) Advises the individual or a person authorized to act on behalf of the individual that the individual or the individual's authorized representative is entitled to receive a copy of the authorization form.

(b) This section does not require any authorization for the receipt of personal or privileged information about an individual.

SEC. 3. Section 791.07 of the Insurance Code is amended to read:

791.07. (a) An insurance institution, agent, or insurance-support organization shall not prepare or request an investigative consumer report about an individual in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement, or a change in insurance benefits, unless the insurance institution or agent informs the individual of the following:

(1) That the individual may request to be interviewed in connection with the preparation of the investigative consumer report.

(2) That upon a request pursuant to Section 791.08, the individual is entitled to receive a copy of the investigative consumer report.

(b) If an investigative consumer report is to be prepared by an insurance institution or agent, the insurance institution or agent shall institute reasonable procedures to conduct a personal interview requested by an individual.

(c) If an investigative consumer report is to be prepared by an insurance-support organization, the insurance institution or agent desiring the report shall inform the insurance-support organization if a personal interview has been requested by the individual. The insurance-support organization shall institute reasonable procedures to conduct an interview, if requested.

(d) An insurance institution, agent, or insurance-support organization shall not prepare or request an investigative consumer report that seeks an individual's genetic information or full genome.

SEC. 3.5. Section 791.07 is added to the Insurance Code, to read:

791.07. (a) A licensee, surplus line insurer, reinsurer, or third-party service provider shall not prepare or request an investigative consumer report about a consumer in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement, or a change in insurance benefits, unless the licensee, surplus

line insurer, reinsurer, or third-party service provider informs the consumer of both of the following in writing before the report preparation:

(1) That the individual may request to be interviewed in connection with the preparation of the investigative consumer report, and the licensee, surplus line insurer, reinsurer, or third-party service provider shall conduct the interview.

(2) That upon a request pursuant to Section 791.08, the individual is entitled to receive a copy of the investigative consumer report.

(b) If an investigative consumer report is to be prepared by a licensee, surplus line insurer, or reinsurer, the licensee, surplus line insurer, or reinsurer shall institute reasonable procedures to conduct a personal interview requested by a consumer.

(c) If an investigative consumer report is to be prepared by a third-party service provider, the licensee, surplus line insurer, or reinsurer shall notify the third-party service provider in writing if a personal interview has been requested by the consumer. The third-party service provider shall conduct the interview requested.

(d) If a licensee, surplus line insurer, or reinsurer uses a third-party service provider to obtain or prepare an investigative consumer report, the written contract between the licensee, surplus line insurer, or reinsurer and the third-party service provider shall require the third-party service provider to do both of the following:

(1) Comply with the requirements of this section.

(2) Not process or share personal information provided to the third-party service provider by the licensee, surplus line insurer, or reinsurer or obtained by the third-party service provider in its investigation of the consumer other than to fulfill the purpose of the contract with the licensee, surplus line insurer, or reinsurer.

(e) A licensee, surplus line insurer, reinsurer, or third-party service provider that prepares or requests an investigative consumer report in connection with an insurance claim shall notify the consumer that the consumer may request to be interviewed in connection with the preparation of the investigative consumer report. The licensee, surplus line insurer, reinsurer, or third-party service provider is not required to provide a copy of an investigative report prepared in connection with an insurance claim, and that contains privileged information, unless compelled to do so by a state or federal court.

(f) A licensee, surplus line insurer, reinsurer, or third-party service provider shall not prepare or request an investigative consumer report that seeks an individual's genetic information or full genome.

SEC. 4. Section 791.11 of the Insurance Code is amended to read:

791.11. An insurance institution, agent, or insurance-support organization shall not seek information in connection with an insurance transaction concerning any of the following:

(a) Any previous adverse underwriting decision experienced by an individual, unless the inquiry also requests the reasons for the previous adverse underwriting decision.

(b) Any previous insurance coverage obtained by an individual through a residual market mechanism, unless the inquiry also requests the reasons why insurance coverage was previously obtained through a residual market mechanism.

(c) An individual's genetic information or full genome, except, unless prohibited by law, an insurance institution, agent, or insurance-support organization may seek genetic information in connection with an insurance transaction if all of the following are true:

(1) The genetic information is included in the medical record of the individual, and is not sought from any other source or record.

(2) The genetic information is not derived from a direct-to-consumer test.

(3) The genetic information is for the purpose of ruling out an adverse finding based on the individual's medical record and the individual has provided informed, written consent for the release, disclosure, and use of the genetic test results or has provided the genetic test results to the insurer.

SEC. 4.5. Section 791.11 is added to the Insurance Code, to read:

791.11. A licensee, surplus line insurer, reinsurer, or insurance-support organization shall not seek information in connection with an insurance transaction concerning any of the following:

(a) A previous adverse underwriting decision experienced by an individual unless the inquiry also requests the reasons for the previous adverse underwriting decision.

(b) Any insurance coverage obtained by a consumer through a residual market mechanism, unless the inquiry also requests the reasons for a previous adverse underwriting decision or the reasons why insurance coverage was previously obtained through a residual market mechanism.

(c) An individual's genetic information or full genome, except, unless prohibited by law, an insurance institution, agent, or insurance-support organization may seek genetic information in connection with an insurance transaction if all of the following are true:

(1) The genetic information is included in the medical record of the individual, and is not sought from any other source or record.

(2) The genetic information is not derived from a direct-to-consumer test.

(3) The genetic information is for the purpose of ruling out an adverse finding based on the individual's medical record and the individual has provided informed, written consent for the release, disclosure, and use of the genetic test results or has provided the genetic test results to the insurer.

SEC. 5. Section 791.12 of the Insurance Code is amended to read:

791.12. An insurance institution or agent shall not base an adverse underwriting decision in whole or in part on the following:

(a) On the fact of a previous adverse underwriting decision or on the fact that an individual previously obtained insurance coverage through a residual market mechanism. However, an insurance institution or agent may base an adverse underwriting decision on further information obtained from an insurance institution or agent responsible for a previous adverse underwriting

decision. The further information, if requested, shall create a conclusive presumption that the information is necessary to perform the requesting insurer's function in connection with an insurance transaction involving the individual and, if reasonably available, shall be furnished the requesting insurer and the individual, if applicable.

(b) On personal information received from an insurance-support organization whose primary source of information is insurance institutions. However, an insurance institution or agent may base an adverse underwriting decision on further personal information obtained as the result of information received from an insurance-support organization.

(c) On the fact that an individual has previously inquired and received information about the scope or nature of coverage under a residential fire or property insurance policy, if the information is received from an insurance-support organization whose primary source of information is insurance institutions and the inquiry did not result in the filing of a claim.

(d) On the fact that an accident involving a peace officer, member of the Department of the California Highway Patrol, or firefighter has been reported and the insurer does not retain liability pursuant to Section 488.5 and subdivision (b) of Section 557.5.

(e) An individual's genetic information or full genome, except, unless prohibited by law, an insurance institution or agent may base an underwriting decision in part on genetic information if all of the following are true:

(1) The genetic information is included in the medical record of the individual.

(2) The genetic information is not derived from a direct-to-consumer test.

(3) The genetic information is for the purpose of ruling out an adverse finding based on the individual's medical record and the individual has provided informed, written consent for the release, disclosure, and use of the genetic test results or has provided the genetic test results to the insurer.

SEC. 5.5. Section 791.12 is added to the Insurance Code, to read:

791.12. A licensee, third-party service provider, surplus line insurer, or reinsurer shall not base an adverse underwriting decision in whole or in part on the following:

(a) On the fact of a previous adverse underwriting decision or on the fact that an individual previously obtained insurance coverage through a residual market mechanism. However, a licensee, third-party service provider, surplus line insurer, or reinsurer may base an adverse underwriting decision on further information obtained from a licensee, third-party service provider, surplus line insurer, or reinsurer responsible for a previous adverse underwriting decision. The further information, if requested, shall create a conclusive presumption that the information is necessary to perform the requesting insurer's function in connection with an insurance transaction involving the individual and, if reasonably available, shall be furnished the requesting insurer and the individual, if applicable.

(b) On personal information received from an insurance-support organization whose primary source of information is licensees. However,

a licensee, third-party service provider, surplus line insurer, or reinsurer may base an adverse underwriting decision on further personal information obtained as the result of information received from an insurance-support organization.

(c) On the fact that an individual has previously inquired and received information about the scope or nature of coverage under a residential fire or property insurance policy, if the information is received from an insurance-support organization whose primary source of information is licensees and the inquiry did not result in the filing of a claim.

(d) On the fact that an accident involving a peace officer, member of the Department of the California Highway Patrol, or firefighter has been reported and the insurer does not retain liability pursuant to Section 488.5 and subdivision (b) of Section 557.5.

(e) An individual's genetic information or full genome, except, unless prohibited by law, an insurance institution or agent may base an underwriting decision in part on genetic information if all of the following are true:

(1) The genetic information is included in the medical record of the individual.

(2) The genetic information is not derived from a direct-to-consumer test.

(3) The genetic information is for the purpose of ruling out an adverse finding based on the individual's medical record and the individual has provided informed, written consent for the release, disclosure, and use of the genetic test results or has provided the genetic test results to the insurer.

SEC. 6. Section 10146 of the Insurance Code is amended to read:

10146. (a) The purposes of this article are all of the following:

(1) To establish standards regarding unfair discrimination among individuals of the same class in the underwriting of life or disability insurance on the basis of a person's genetic characteristics or personal genetic history.

(2) To establish minimum standards for determining insurability that are sufficiently reliable to be used for life and disability insurance risk classification and underwriting purposes.

(3) To expand prohibitions against the use of genetic information and genetic testing by insurers to include entities that issue policies of life and disability insurance.

(b) This article, Sections 10140 and 10143, paragraph (9) of subdivision (a) of Section 791.06, subdivision (d) of Section 791.07, subdivision (c) of Section 791.11, and subdivision (e) of Section 791.12 shall constitute the exclusive requirements for the practices of life insurers and disability insurers, as defined in this article, relating to genetic characteristics or to tests thereof.

(c) Notwithstanding any other law, this article and the provisions referenced in paragraph (1) of subdivision (a) do not authorize the use or disclosure of an individual's full genome, which is hereby prohibited.

SEC. 7. Section 10147 of the Insurance Code is amended to read:

10147. As used in this article:

(a) “Disability insurance” means insurance as defined in Section 106, excluding health insurance, as defined in Section 106. “Disability insurance” includes disability income insurance, which is insurance against loss of occupational earning capacity arising from injury, sickness, or disablement, and includes insurance which provides benefits for overhead expenses of a business or profession when the insured becomes disabled.

(b) “Genetic characteristics” means any scientifically or medically identifiable gene or chromosome, or alteration thereof, that is known to be a cause of a disease or disorder, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(c) “Genetic information” means information derived from genetic testing to determine the presence or absence of variations or mutations, including carrier status, in an individual’s genetic material or genes that are scientifically or medically believed to cause a disease, disorder, or syndrome, or are associated with a statistically increased risk of developing a disease, disorder, or syndrome, which is asymptomatic at the time of testing. This testing does not include routine physical examinations or chemical, blood, or urine analysis, unless conducted purposefully to obtain genetic information, or questions regarding family history.

(d) “Life or disability insurer” means an insurer licensed to transact life insurance or disability insurance, as defined in subdivision (b), in this state or a fraternal benefit society licensed in this state.

(e) “Policy” means either of the following:

(1) A life insurance policy or a disability insurance policy delivered in this state.

(2) A certificate of life insurance benefits or disability insurance benefits, issued under a group life or disability insurance policy or by a fraternal benefits society and delivered in this state by a life or disability insurer or a fraternal benefits society, regardless of the location of the group master policy.

(f) “Test of a person’s genetic characteristics,” “genetic test,” or “genetic testing” means a laboratory test that is generally accepted in the scientific and medical communities for the determination of the presence or absence of genetic information or genetic characteristics.

SEC. 8. Section 10148 of the Insurance Code is amended to read:

10148. (a) (1) A life or disability insurer shall not cancel, limit, or deny coverage, establish differentials in premium rates, conditions, or terms, or make an adverse underwriting decision, as defined in Section 791.02, based on a test for the presence or absence of a genetic characteristic.

(2) Notwithstanding paragraph (1), a life or disability insurer may base an underwriting decision on a test for the presence or absence of a genetic characteristic if all of the following are true:

(A) The test results are included in the medical record of the individual and are only accessed by the life or disability insurer through authorized access to the medical record.

(B) The test is not a direct-to-consumer test.

(C) The test is for the purpose of ruling out an adverse finding based on the individual's medical record and the individual has provided informed, written consent for the release, disclosure, and use of the genetic test results or has provided the genetic test results to the insurer.

(b) (1) A life or disability insurer shall not require, request, or solicit genetic information or consider a person's decisions or actions relating to genetic testing in any manner for an insurance purpose.

(2) This subdivision does not apply to records necessary solely for the payment of benefits or for a therapeutic purpose.

(c) (1) A life or disability insurer shall not use genetic test results in any manner for an insurance purpose.

(2) Notwithstanding paragraph (1), a life or disability insurer may use genetic test results for an insurance purpose if all of the following are true:

(A) The test results are included in the medical record of the individual and are accessed by the life or disability insurer through authorized access to the medical record.

(B) The test is not a direct-to-consumer test.

(C) The genetic information is for the purpose of ruling out an adverse finding based on the individual's medical record and the individual has provided informed, written consent for the release, disclosure, and use of the genetic test results or has provided the genetic test results to the insurer.

(3) This subdivision does not apply to records necessary solely for the payment of benefits or for a therapeutic purpose.

(d) A life or disability insurer shall not require a person to undergo a test of the person's genetic characteristics to determine eligibility or insurability or for other insurance purposes.

(e) A life or disability insurer shall not ask a person if they or any member of their family have taken a genetic test or ask about the result of a genetic test.

(f) A policy shall not limit benefits otherwise payable if loss is caused or contributed to by the presence or absence of genetic characteristics, except to the extent and in the same fashion as the insurer limits coverage for loss caused or contributed to by other medical conditions presenting an increased degree of risk.

(g) This section does not prevent a life or disability insurer from accessing an individual's medical record as part of an application for insurance. However, a life or disability insurer shall not directly or indirectly consider or use genetic information or genetic test results of the individual or the individual's family in underwriting or rating decisions, including information derived from those results, except as permitted pursuant to subdivision (c).

(h) This article does not limit an insurer's right to decline an application or enrollment request for a life or disability insurance policy, charge a higher rate or premium for such a policy, or place a limitation on coverage under such a policy, based on the manifestation, diagnosis, or treatment of any present disease or disorder. This article does not prohibit a life insurer or disability insurer from considering a medical diagnosis included in an

individual's medical record, even if the diagnosis was made based on the results of a genetic test.

(i) Discrimination shall not be made in the fees or commissions of agents or brokers writing or renewing a life or disability policy on the basis of a test of a person's genetic characteristics.

SEC. 9. Section 10149 of the Insurance Code is amended to read:

10149. (a) All underwriting activities undertaken by insurers pursuant to this article shall be subject to all applicable provisions of Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1.

(b) The commissioner may promulgate reasonable rules and regulations as necessary to administer this article.

SEC. 10. Section 10149.1 of the Insurance Code is amended to read:

10149.1. (a) This section shall apply to the use or disclosure of genetic information or characteristics, including the results of a test for a genetic characteristic by an insurer. An insurer does not violate this article by receiving genetic information or the results of a genetic test, provided it does not directly or indirectly use the information or results in its underwriting or rating in violation of subdivision (c) of Section 10148 and does not disclose the genetic information or genetic test in a way that violates this section.

(b) A person who either uses genetic information or genetic characteristics, including the results of a genetic test, in a manner inconsistent with this article, or negligently discloses genetic information or characteristics, including the results of a test for a genetic characteristic, to a third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except as provided in Sections 1603.1 and 1603.3 of the Health and Safety Code, shall be assessed a civil penalty in an amount not to exceed five thousand dollars (\$5,000) per violation plus court costs, as determined by the court. The penalty and costs shall be paid to the subject of the test.

(c) A person who either knowingly or with such frequency as to indicate a general business practice, uses genetic information or genetic characteristics, including the results of a genetic test, in a manner inconsistent with this article, or willfully discloses genetic information or characteristics, including the results of a test for a genetic characteristic, to a third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except as provided in Sections 1603.1 and 1603.3 of the Health and Safety Code, shall be assessed a civil penalty in an amount not less than one thousand dollars (\$1,000) and no more than ten thousand dollars (\$10,000) per violation plus court costs, as determined by the court. The penalty and costs shall be paid to the subject of the test.

(d) A person who willfully or negligently discloses genetic information or characteristics, including the results of a test for a genetic characteristic, to a third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except as provided in Sections 1603.1 and 1603.3 of the Health and Safety Code, which results in economic, bodily, or emotional harm to the subject of the

test, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(e) A person who commits an act described in subdivision (b) or (c) shall be liable to the subject for all actual damages, including damages for economic, bodily, or emotional harm which is proximately caused by the act.

(f) Each disclosure made in violation of this section is a separate and actionable offense.

(g) (1) The following penalties shall be in addition to the penalties otherwise prescribed in this section:

(A) Any life or disability insurer that violates this article is liable for administrative penalties of not less than one thousand five hundred dollars (\$1,500) and not more than two thousand five hundred dollars (\$2,500) for the first violation and not less than two thousand five hundred dollars (\$2,500) or more than five thousand dollars (\$5,000) for each subsequent violation.

(B) Any life or disability insurer that violates this article with a frequency that indicates a general business practice or commits a knowing violation of that section is liable for administrative penalties of not less than fifteen thousand dollars (\$15,000) and not more than one hundred thousand dollars (\$100,000) for each violation.

(2) An act or omission that is inadvertent and that results in incorrect premium rates being charged to more than one insured shall be a single violation for the purpose of this section.

(h) The commissioner shall have the authority to assess penalties specified in this section, in addition to any other fine, penalty, or remedy permitted by law, against life and disability insurers for violations of this article.

SEC. 11. Sections 3.5, 4.5, and 5.5 of this bill incorporate amendments to Sections 791.07, 791.11, and 791.12 of the Insurance Code proposed by both this bill and Senate Bill 354. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2027, (2) each bill amends Sections 791.07, 791.11, and 791.12 of the Insurance Code, and (3) this bill is enacted after Senate Bill 354, in which case Sections 791.07, 791.11, and 791.12 of the Insurance Code, as amended by Sections 3, 4, and 5 of this bill, shall remain operative only until the operative date of Section 2 of Senate Bill 354, at which time Sections 3.5, 4.5, and 5.5 of this bill shall become operative.